United Nations CCPR/C/SR.3074

International Covenant on Civil and Political Rights

Distr.: General
12 August 2014
English
Original: French

Human Rights Committee
111th session

Summary record of the 3074th meeting
Held at the Palais Wilson, Geneva, on Thursday, 10 July 2014, at 3 p.m.

Chairperson: Sir Nigel Rodley

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fourth periodic report of Georgia

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Section, room E.5108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.14-08410 (E) 080814 120814

1408410

Please recycle

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fourth periodic report of Georgia (CCPR/C/GEO/4; CCPR/C/GEO/Q/4 and Add.1; and HRI/CORE/1/Add.90/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Georgia took places at the Committee table.*

2. **Ms. Tsulukiani** (Georgia), highlighting the most recent measures taken by Georgia to fulfil its obligations under the Covenant, said that the first half of 2014 had seen the adoption of a national human rights strategy (2014–2020), which essentially aimed to consolidate institutional democracy by gradually integrating a human rights-based approach into public policies and programmes; a national human rights action plan; and the Law on the Elimination of All Forms of Discrimination, which covered direct, indirect and multiple discrimination in both the public and private sector. The Office of the Public Defender would monitor the enforcement of that Law. In 2012 and 2013 a series of reforms had been launched with a view to ensuring the independence of the judiciary. The main objective of the first stage of reform was to empower judges of the ordinary courts to run the High Council of Justice independently and to redefine the criteria for appointing, promoting and assessing judges; the second stage focused on ensuring the independence and life tenure of judges. Various criminal justice reforms were under way. In particular, the competent bodies were working to bring provisions relating to victims' rights into line with relevant European standards, to draft a juvenile justice code and to review the law governing plea bargaining. In 2013, all prosecutorial powers previously vested in the Minister of Justice had been transferred to the Chief Prosecutor.

3. Following the parliamentary elections of 2012, the Government had made it a priority to depoliticize the police force and transform the Ministry of Internal Affairs into a public body that served the community. In that context, a law on the police, drawn up in close collaboration with the European Union and various local and international non-governmental organizations, had been adopted. In addition, infrastructure and living conditions in temporary detention centres had been improved and not a single human rights violation had been reported since November 2012. Significant progress had been made since 2013 in improving detention conditions, despite the grim legacy that had been inherited. The prison population had decreased by 60 per cent, access to quality health care for remand and convicted prisoners had been improved, the spread of tuberculosis had decreased by a factor of 15, a suicide prevention programme had been launched, services catering for drug addicts and persons with disabilities had been provided and the mortality rate among detainees had dropped to 22 per 10,000. Three dilapidated prisons had been closed down and two new detention centres would open shortly. Since early 2014, the authorities had placed a particular focus on the psychosocial rehabilitation and social reintegration of detainees and the improvement of mental health care in prisons. An independent legal aid service had also been established.

4. The implementation of the Covenant in territories occupied by the Russian Federation was an extremely difficult challenge for the Georgian authorities. Those regions were under the control of Russian military forces and were difficult to access since barbwire fences ran the length of the occupation line. Sick people and pregnant women, among others, had been denied authorization to leave the territories, which had already had tragic consequences for those who required emergency hospitalization. The ethnic Georgian population that remained in those territories lived in constant fear of persecution, since abductions, physical violence and attacks targeting that population were common currency. The Government of Georgia was making every effort to meet the needs of people living on

either side of the occupation line and, as part of its strategy to engage with communities in the occupied territories, was providing them with ambulances and free health care. He urged the Office of the High Commissioner for Human Rights to continue its efforts to obtain authorization to visit Abkhazia and Tskhinvali region.

5. Lastly, during the reporting period, Georgia had ratified the Convention on the Rights of Persons with Disabilities, the Convention on the Reduction of Statelessness and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

6. **The Chairperson** invited the Committee members to address questions to the delegation.

7. **Mr. Kälin** requested more information on cases in which the Georgian courts had invoked the Covenant and asked how it had given effect to Views adopted by the Committee on communications concerning the State party; the response given in the written replies did not indicate whether it had actively followed up on the proposals of the unit of the Department of State Representation before International Courts of Human Rights that was responsible for monitoring and implementing the decisions of those courts. He invited the delegation to comment on allegations that the Public Defender had an extremely limited budget and relied to a large extent on international donor support.

8. Could the delegation provide more comprehensive information on the difficulties faced by the State party in the implementation of its strategy on the occupied territories and indicate whether it planned to take further measures to address the needs of persons living in those areas? Noting that exceptions to the ban on entering the occupied territories via unofficial entry points were tolerated, in particular in order to supply drugs or basic necessities, he asked the delegation to provide examples of cases in which access to those territories had been denied or granted and to specify the grounds for the respective decisions. Given that under article 8 of the Law on Occupied Territories documents issued by an authority established following the occupation had no legal value, it would be helpful to know whether marriage and birth certificates drawn up by the local civil registry office in those territories were considered valid by Georgia; if not, children born in the territories would be deprived of the right to be registered at birth. Lastly, he invited the delegation to comment on reports that residents of the occupied territories were almost always issued with identity cards that specified their nationality, rather than the "neutral" identity documents that were recognized by Georgia.

9. **Mr. Fathalla** said that the initial version of the bill on combating all forms of discrimination provided that enforcement of the law would be monitored by an independent institution with the power to bring cases before the courts, while the final version of the bill, which had recently entered into force, had conferred responsibility for monitoring enforcement on the Office of the Public Defender, which was not competent to bring cases before the courts. He invited the delegation to comment on that matter; to indicate whether the Office of the Public Defender was able to effectively fulfil its mandate, and in particular whether it was allocated sufficient resources to do so; and to state whether the effective remedies provided for in the initial bill had been retained its final version. Could the delegation also respond to the questions that had been raised as to whether the punishments provided for in the anti-discrimination law would have the desired deterrent effect? Since the State party had not provided a written reply on that issue, he asked the delegation to indicate whether racial discrimination was punishable and racist organizations were banned under the Criminal Code and whether measures were being taken to combat hate speech and discriminatory remarks against ethnic or religious minorities in political discourse or the media. He also asked the delegation to specify whether the Law on the Elimination of All Forms of Racial Discrimination also protected the right of persons with disabilities to health, education and social benefits and their right to access public places and public

transport. Lastly, he would welcome additional information on sentences handed down to perpetrators of ill-treatment of prisoners and on measures to compensate victims, as well as replies to questions relating to reprisals, victims' access to compensation and rehabilitation programmes for victims of torture.

10. **Mr. Zlătescu** asked how the State party intended to solve the problem of the underrepresentation of women in political life and reduce inequality between men and women in terms of working conditions and access to employment and professional training. He asked what measures did the State party intend to take to promote women's access to family planning and reproductive health programmes in rural areas, as well as to promote the integration of ethnic minority women, while respecting their culture and language. The delegation should also indicate how the State party intended to combat the marginalization of homosexuals, bisexuals and transsexuals.

11. **Mr. Salvioli** expressed surprise that the State party had indicated in its written replies that the Prosecutor's Office had not recorded a single case of sexual violence, whereas many sources asserted that a large number of rapes had been committed during the conflict in 2008. He invited the delegation to describe the way in which investigations were carried out and to explain why the cases of sexual violence had not been detected. Despite the numerous measures taken by the State party to end violence against women, the incidence of such violence remained high, the investigations ineffective and shelters for victims too few in number. Although the adoption of legislation making domestic violence a punishable offence was welcome, it was nevertheless regrettable that only acts that caused physical harm were covered under the law. It would be interesting to know whether the State party planned also to crack down on psychological violence, which was particularly common in the context of domestic violence. The delegation should indicate whether marital rape and sexual harassment in the workplace were expressly prohibited under the law and, if so, give examples of cases brought before the courts. He invited the delegation also to say whether the State party planned to reconsider the provision imposing a waiting period of five days, as opposed to the previous three-day period, for women who had decided to terminate their pregnancy, and whether measures were taken to discourage sex-selective abortions. In the light of the information communicated to the Committee by the Public Defender that between 2011 and 2013 a large number of girls had left school to marry, he wished to know whether early marriage was prohibited by law and whether measures had been taken to prevent it.

12. He asked for further details of the investigations into the human rights violations committed during the armed conflict in 2008 and the legal action taken on them. He invited the delegation to comment on the fact that only one person had been convicted and, moreover, sentenced to a prison term of less than 4 years for the deaths caused by the excessive use of force by police and prison staff during the unrest at prison No. 5 in Tbilisi. Similarly, the delegation should indicate whether, apart from the Minister of Internal Affairs, others had been brought to justice and made to answer for the events of 26 May 2011, during which several demonstrators had been killed and injured. Lastly, it would be useful to hear about the detention of Mamuka Mikautadze, whose death was officially ruled as suicide, whereas an autopsy had revealed external bruising which indicated otherwise, and the suspicious death of Shalva Tavtukhashvili, found dead at his home, whereas he had been the main witness in a case against a special security force official.

13. **Mr. Ben Achour** wished to know whether the Government planned to follow up on the proposals by the Public Defender to prohibit plea bargaining between the judge and the defendant, as provided for in the Code of Criminal Procedure, in cases of persons prosecuted for acts of torture or ill-treatment, and to set up an independent mechanism for investigating all allegations of acts of torture and ill-treatment attributed to State officials. With reference to paragraph 71 of the State party's written replies, he asked what offences

had been committed by the 83 prison staff who had been dismissed and 149 others who had faced disciplinary measures.

14. **Ms. Waterval** asked what was being done to ban the corporal punishment of children in all settings, including within the family. It seemed to be broadly accepted in the State party for educational and disciplinary purposes.

15. **The Chairperson** proposed briefly suspending the meeting to allow the delegation to prepare its replies to the questions which it had been asked.

The meeting was suspended at 4.20 p.m. and resumed at 4.45 p.m.

16. **Mr. Tsuladze** (Georgia) said that the provisions of international instruments and the decisions of the European Court of Human Rights were commonly cited by Georgian courts. The Covenant had been explicitly invoked in 10 judgements handed down by the ordinary courts and in 5 rulings by the Constitutional Court concerning issues such as conscientious objection to military service, the rights of detainees and the right to peaceful assembly. To encourage the direct application of the Covenant by the courts, a course specifically devoted to the Covenant had been incorporated into the syllabus of the High School of Justice.

17. **Ms. Tsulukiani** (Georgia) said that the Department of State Representation before International Courts of Human Rights was responsible for defending the State before international courts when complaints were lodged against Georgia and ensuring compliance with the courts' decisions by making proposals for their enforcement. Moreover, a few years earlier, Georgia had adopted a procedure, set out in article 310 of the Code of Criminal Procedure, obliging national courts to review cases on which the European Court of Human Rights had delivered a judgement. Several cases in which the European Court had found that Georgia had violated the European Convention on Human Rights had therefore been reviewed by the national courts in favour of the applicants. Such reviews were currently only applicable to decisions by the European Court of Human Rights, but the Ministry of Justice hoped to amend the Code of Criminal Procedure so as to extend them to decisions by other international bodies, including the Human Rights Committee. The budget allocated to the Public Defender had more than doubled in six years, increasing from 1 million lari in 2008 to 2.3 million in 2014, and the Government had committed to further increases.

18. **Ms. Khidasheli** (Georgia) said that a bill to amend the Law on the Occupied Territories was currently before the parliament. It focused on freedom of movement and facilitation of the work of humanitarian organizations, as requested by a number of international organizations, and should be adopted by the parliament at its autumn session. Although it was true that under the current Law the de facto authorities of the occupied territories were considered illegal and the laws which they adopted were consequently considered to be invalid, the Law ensured that inhabitants of the occupied territories had the possibility of obtaining valid civil registry certificates throughout the country. The inhabitants of the occupied territories could also obtain "neutral" passports allowing them to move freely in Georgia and travel abroad, but the procedure for obtaining neutral passports had not been widely used – 43 passports of that kind had been issued in 2013 and only 15 since early 2014. Furthermore, all the welfare or economic development programmes implemented by the Government applied to all Georgians, including in the occupied territories. It should also be noted that under the Government's strategy to engage with communities in the occupied territories several agricultural development projects had been successfully carried out in cooperation with the de facto authorities.

19. **Ms. Tsulukiani** (Georgia) said that during the public consultations on the initial anti-discrimination bill, some segments of the population and civil society had opposed a bill that had otherwise been widely endorsed by international experts. A major awareness-

raising campaign had been launched to promote a better understanding of the bill; however certain changes had had to be made for it to be adopted, which accounted for the differences between the final version of the law and the initial bill. The law as adopted was no less groundbreaking, since it was the first national law which prohibited at the same time direct, indirect and multiple discrimination in both the public and private sphere. The next step would be to set up an independent body responsible for ensuring compliance with the anti-discrimination law and competent to take binding decisions in the event of a violation of the law or, failing that, to give the Public Defender the necessary competence to perform that function himself or herself.

20. **Ms. Mezvrishvili** (Georgia) said that racial discrimination was punishable under the Criminal Code, which also established that discrimination on the basis of race, language, sex, sexual orientation, gender identity, age, religion, political views, disabilities, nationality, ethnic or social origin, place of residence or any other consideration, constituted an aggravating circumstance applicable to all criminal offences.

21. **Ms. Tsulukiani** (Georgia) added that article 50 of the Law on the Media prohibited journalists from spreading hate speech or any content of a racist or discriminatory nature. The Prime Minister had recently instructed the Minister of Justice to review the legislation so as to strengthen regulations preventing political figures and journalists from using freedom of expression for racist or discriminatory propaganda. The legislation was currently under review.

22. **Mr. Talakvadze** (Georgia) stated that, in 2014, the Government had adopted a technical protocol under which all public buildings and services must be made accessible to persons with disabilities within five years. The policy led by the Ministry of Labour, Health and Social Affairs focused more on broadening the range of services offered to persons with disabilities to help them to become more independent than on increasing social benefits. Persons with disabilities enjoyed the same access to basic health services as the rest of the population. A prison unit adapted to the needs of prisoners with disabilities had recently been opened. The unit, which was designed to house 57 inmates, was the first of its kind in the country.

23. **Ms. Kvirikashvili** (Georgia) stated that legal proceedings had been brought against 18 members of staff at Gldani Prison, 16 of whom had been convicted, and an investigation was under way into other cases of inhuman treatment at the prison, for which 2,000 prisoners had already been interviewed. In 2013, legal proceedings had been brought against 48 members of staff at other prisons, including a former prison governor, and 4 members of staff at Ksani Prison, including the prison governor, had been tried and acquitted. In 2014, 12 prison officials had been found guilty under the provisions of the Criminal Code prohibiting torture and inhuman treatment and had been sentenced to terms of imprisonment of up to 9 years. Lastly, the former governor of Kutaisi Prison had been convicted under the provisions of the Criminal Code concerning torture.

24. **Mr. Talakvadze** (Georgia) stated that, during the period 2013–2014, 23 prisoners had claimed compensation for acts of torture and ill-treatment. In addition, psychological and social victim support programmes had been established, along with a new prison hospital offering psychiatric treatment and care services for drug dependency.

25. **Ms. Gabitashvili** (Georgia) stated that, since 2012, educational institutions had been required to provide access to education for students with special needs. Around 4,000 such students had thus been integrated into the public education system. In 2013, 42 women with special needs had attended courses at vocational training centres, also in keeping with the principle of inclusive education, and the State had established classes and special educational services for students who were hearing-impaired, autistic or chronically ill.

26. **Mr. Talakvadze** (Georgia) stated that under the Criminal Code prisoners were guaranteed access to complaint mechanisms and that letter boxes had been installed in prisons in order to allow them to submit their complaints. The Office of the Public Defender, the national preventive mechanism, closely monitored the situation in prisons and the Government had instructed a number of governmental bodies to examine the issues affecting the prison sector. Since 2012, the prison population had fallen by 60 per cent and the number of complaints lodged by prisoners had almost tripled, demonstrating that prisoners no longer feared reprisals at the hands of prison staff. As a result of the prisoners' complaints, the chief inspector of prisons had been dismissed, along with 114 other members of prison staff, and more than 340 prison officials had been disciplined. The nature of the complaints had changed and most now concerned rehabilitation services or food and health care.

27. **Ms. Tsulukiani** (Georgia) stated that the Ministry of Justice had taken into account the claims made by prisoners serving sentences of life imprisonment and had ordered a group of parliamentarians to draw up a report on the conditions of detention for persons sentenced to life imprisonment. In 2012, the State had established a rehabilitation programme for former prisoners, which included psychosocial support, vocational training and employment assistance. To date, social workers involved in that programme had met with over 1,500 former prisoners, 600 of whom had decided to take part in the programme.

28. **Ms. Khidasheli** (Georgia) stated that 11 per cent of parliamentary seats were held by women and that 4 of the Government's 19 ministers were women. In 2012, 45 per cent of public service posts had been held by women. Although there was relative gender balance in the judicial system and the Office of the Prosecutor, including posts of responsibility, more women than men were working in the health, education and culture sectors. After an initial phase of reform of the Labour Code which would focus on striking a balance between employee and employer rights, efforts would be directed towards achieving equal opportunity employment for men and women. To that end, there were plans to adopt positive discrimination measures.

29. **Ms. Gogheliani** (Georgia) stated that, in 2010, the Ministry of Education and Science had launched a programme to teach Georgian as a second language in schools in regions with large ethnic minority communities. Bilingual school textbooks, both in Georgian and in the languages of certain ethnic minorities, had been made available. In 2009, the law on higher education had been amended with a view to introducing quota systems for minorities.

30. **Mr. Talakvadze** (Georgia) stated that all women had the right to contraception and maternal health care as a part of the universal health system. The percentage of women who terminated their pregnancies was falling and the proportion of women of reproductive age using contraceptives was rising. The distribution of contraceptive supplies was covered in part by donor support. The Ministry of Labour, Health and Social Affairs had strengthened counselling and support services for women, who currently had a five- rather than three-day waiting period to decide whether or not to go ahead with an abortion. As part of a survey carried out with the assistance of the United Nations Development Programme (UNDP), 9 per cent of sexually active Georgian women had reported that they had undergone a sex-selective abortion. In April 2014, the Ministry of Labour, Health and Social Affairs, in partnership with the United Nations Population Fund (UNFPA), had launched a national study on the issue, whose findings should make it possible to identify the social and cultural factors involved and to develop the measures to be taken, particularly in terms of legislation and awareness-raising.

31. **Ms. Meskhi** (Georgia) stated that, since 2009, the public assistance fund for victims of trafficking in persons had also been used to offer services to victims of domestic violence. Between 2010 and 2013, the State had opened three shelters with capacities of up

to 20 persons each, including child victims, which provided medical care, psychological support, legal assistance, food and clothing. A fourth shelter, capable of housing 15 persons, would open at the end of 2014. Those shelters were also open to members of the lesbian, gay, bisexual and transsexual (LGBT) community.

32. **Mr. Lordkipanidze** (Georgia) stated that the Law on the Elimination of All Forms of Discrimination prohibited discrimination based on gender and sexual orientation. The Law had introduced the principle of multiple discrimination and allowed for the adoption of special measures not considered to be discriminatory with a view to swifter progress towards de facto gender equality. The national human rights strategy and action plan contained specific objectives relating to the rights of women and of members of the LGBT community. The Office of the Ombudsman was competent to examine cases of discrimination. In such cases, the burden of proof was shifted away from the complainant. The Ombudsman made recommendations and had the power to submit cases to the national courts if it was found that discrimination had occurred. The Constitutional Court had condemned violations of the rights of the members of the LGBT community, particularly in Decree No. 536, dated 4 February 2014. Sexual harassment in the workplace was covered by the Law on Gender Equality. While sexual harassment had not yet been made a criminal offence under the law, by ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Georgia had undertaken to bring its legislation into line with that instrument and to eliminate all forms of sexual harassment.

33. **Ms. Khidasheli** (Georgia) added that the promotion of the rights of the members of the LGBT community was an important component of the national action plan on human rights, which sought to tackle existing negative attitudes and stereotypes in Georgian society. With regard to war crimes, in particular instances of rape committed during the 2008 conflict, in 2008 the Office of the Prosecutor had launched an investigation into crimes against humanity, ethnic cleansing, mass destruction of property and the torture, arbitrary detention and ill-treatment of prisoners. Since 2012, the Ministry of Defence had been conducting an investigation into possible misconduct or crimes by superiors in the chain of command during the 2008 conflict. Owing to the complex nature of the situation, particularly in terms of administration, and the obstacles arising from the occupation of Georgia, those investigations were still ongoing. Furthermore, during the period 2009–2010, the five largest Georgian non-governmental organizations had carried out investigations into the crimes committed during the 2008 conflict and had transmitted their report to the International Court of Justice. Only one case of rape had been filed and the perpetrators had not yet been identified.

34. **Ms. Kvirikashvili** (Georgia) stated that two articles of the Criminal Code had been amended in order to further criminalize domestic violence, in particular by extending the definition of family members to cover persons living under the same roof and by providing for penalties in cases of psychological violence. Marital rape was covered by the provisions of the Criminal Code concerning rape. Crimes against sexual freedom and sexual abuse were also punishable under the Criminal Code and abuse of power, particularly in the performance of official duties, was considered an aggravating factor.

35. **Ms. Gabitashvili** (Georgia) stated that the Law on General Education prohibited any use of violence in schools and all acts of violence must be punished in accordance with the regulations in force. In particular, the Code of Ethics for Teachers prohibited the use of emotional and psychological pressure. The Ministry of Education and Science had established an institution responsible for guaranteeing safety in schools and staffed by officials trained to identify child victims of abuse perpetrated at school or within the family, as well as children at risk of coming into conflict with the law.

36. **The Chairperson** thanked the delegation and invited it to continue with its replies during the next meeting.

The meeting rose at 6 p.m.